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BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

2012 MAR 8 PM 1 15

IN THE MATTER OF THE FORMAL
COMPLAINT OF SWING FIRST GOLF,
LLC, AGAINST JOHNSON UTILITIES,
LLC.

DOCKET NO. WS-02987A-08-0049

NOTICE OF FILING
PLEADINGS, RULINGS, MINUTE
ENTRIES AND ORDERS FILED IN
SUPERIOR COURT CASE SINCE
JANUARY 27, 2012

In her Amended Procedural Order dated February 17, 2012, the administrative law judge ordered the parties to docket copies of documents, rulings, minute entries, or orders filed in or issued by the Superior Court in *Johnson Utilities, LLC, et al. v. Swing First Golf, LLC, et al.* (Cause No. CV2008-000141) within one business day of such documents being filed or issued in the Superior Court case. In compliance with this order, Johnson Utilities LLC hereby files copies of (i) Minute Entry filed March 6, 2012, and (ii) Plaintiffs' Motion for Stay Pending Special Action Review filed March 7, 2012.

RESPECTFULLY submitted this 8th day of March, 2012.

BROWNSTEIN HYATT FARBER SCHRECK
LLP

Jeffrey M. Crockett, Esq.
One East Washington Street, Suite 2400
Phoenix, Arizona 85004
Attorneys for Johnson Utilities, LLC

ORIGINAL and thirteen (13) copies of the
foregoing filed this 8th day of March, 2012, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

MAR - 8 2012

DOCKETED BY

1
2 Copy of the foregoing hand-delivered
this 8th day of March, 2012, to:

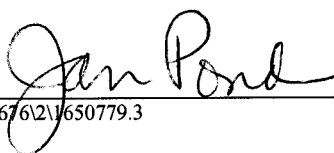
3 Yvette B. Kinsey, Administrative Law Judge
4 Hearing Division
ARIZONA CORPORATION COMMISSION
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 Robin Mitchell, Chief Counsel
Legal Division
8 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
9 Phoenix, Arizona 85007

10 Steve Olea, Director
11 Utilities Division
ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14 COPY of the foregoing sent via e-mail
this 8th day of March, 2012, to:

15 Mr. Craig A. Marks
16 Craig A. Marks, PLC
10645 North Tatum Boulevard, Suite 200-676
17 Phoenix, Arizona 85028

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19 
20 146762\650779.3

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-000141

03/06/2012

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

JOHNSON UTILITIES L L C, et al.

MICHAEL L KITCHEN
ANUPAM BHATHEJA

v.

SWING FIRST GOLF L L C, et al.

CRAIG A MARKS

MINUTE ENTRY

The Court has reviewed and considered Plaintiffs' Motion to Dismiss for Lack of Subject-Matter Jurisdiction filed February 13, 2012, Defendants/Counterclaimants' Response filed February 21, 2012 and Plaintiffs' Reply thereto filed February 27, 2012.

For the reasons expressed in the Response brief,

IT IS ORDERED denying Plaintiffs' Motion to Dismiss for Lack of Subject-Matter Jurisdiction.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

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Telephone: (480) 994-2000

5 Attorneys for Plaintiffs/Counterdefendants

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

7 **IN AND FOR THE COUNTY OF MARICOPA**

8 JOHNSON UTILITIES, LLC; THE CLUB
9 AT OASIS, LLC; GEORGE H. JOHNSON;
JANA S. JOHNSON; BRIAN F.
10 TOMPSETT,

11 Plaintiffs,

12 v.

13 SWING FIRST GOLF, LLC; DAVID
ASHTON,

14 Defendants.

15 SWING FIRST GOLF, LLC, an Arizona
16 limited liability company; DAVID ASHTON
and JANE DOE ASHTON, husband and
17 wife,

18 Counterclaimants,

19 v.

20 JOHNSON UTILITIES, LLC, d/b/a
JOHNSON UTILITIES COMPANY, an
21 Arizona limited liability company; THE
CLUB AT OASIS, LLC, an Arizona limited
22 liability company; GEORGE H. JOHNSON
and JANA S. JOHNSON, husband and wife;
23 BRIAN F. TOMPSETT and JANE DOE
TOMPSETT, husband and wife,

24 Counterdefendants.

Cause No. CV2008-000141

**PLAINTIFFS' MOTION FOR STAY
PENDING SPECIAL ACTION
REVIEW**

(Assigned to the Honorable Dean Fink;
Assigned to the Honorable John Rea for
trial)

Expedited Ruling Requested

25
26 Plaintiffs/Counterdefendants hereby request entry of a stay in the above-entitled matter to

✓
3/8/12
c. Tompsett
Hodges

1 allow Plaintiffs/Counterdefendants the opportunity to seek special action review of this Court's
2 ruling denying their Motion to Dismiss for Lack of Subject Matter Jurisdiction. This case is
3 currently set to begin trial on March 12, 2012 on several remaining claims. However, by minute
4 entry order dated March 7, 2012 this Court denied Plaintiff/Counterdefendant's Motion to
5 Dismiss based on lack of subject matter jurisdiction by the Superior Court.

6 The questions of the jurisdiction of this Court over a matter, and regarding the scope of
7 authority of the Arizona Corporation Commission, are appropriate issues for special action
8 jurisdiction. See e.g. *Mountain States Tel. & Tel. Co. v. Arizona Corporation Commission*,
9 160 Ariz. 350, 351, 773 P.2d 455, 456 (1989); see also *Qwest Corp. v. Kelly*, 204 Ariz. 25, 27,
10 59 P.3d 789, 791 (App. 2002). To the extent that this Court may lack subject matter jurisdiction
11 over some of the claims to be presented for the currently-set trial, it would be prejudicial to
12 require such claims to proceed without appellate review. Therefore, Plaintiffs/
13 Counterdefendants hereby request that this Court issue an immediate stay of proceedings to
14 allow Plaintiffs/Counterdefendants to seek special action review and seek determination by the
15 Court of Appeals as to whether this Court has jurisdiction over the entirety of this claim.

16 RESPECTFULLY SUBMITTED this 7th day of March, 2012.

17
18 MARGRAVE CELMINS, P.C.

19 By /s/ Michael L. Kitchen

20 Michael L. Kitchen
21 8171 E. Indian Bend Road, Suite 101
Scottsdale, AZ 85250
Co-Counsel for Plaintiffs

22 Original of the foregoing e-filed this 7th day of
23 March, 2012 with:

24 Clerk of the Court
25 Maricopa County Superior Court
201 West Jefferson Street
Phoenix, Arizona 85003-2243
26

1
2 Copy of the foregoing emailed this 7th day of
March, 2012 to:

3 The Honorable Dean Fink
4 Maricopa County Superior Court
Old Courthouse
5 125 West Washington, Room 202
Phoenix, AZ 85003

6 Copy of the foregoing e-mailed on this 7th day
7 of March, 2012 to:

8 Craig A. Marks
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9 10645 N. Tatum Boulevard, Suite 200
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18
19 By /s/ Kathy Allison
20
21
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23
24
25
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